

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
) CRIMINAL ACTION NO.
v.)
) 2:17cr430-MHT
)
TIMOTHY JASON ECKERMAN)

OPINION AND ORDER

This cause is before the court on the motion to continue made by defendant Timothy Jason Eckerman on October 18, 2017. For the reasons set forth below, the court finds that jury selection and trial, now set for November 6, 2017, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance would "result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Eckerman in a speedy trial. Eckerman is charged with being a felon in possession of a firearm, and all of his previous convictions and

associated criminal records are in Florida. In order to prepare for trial, defense counsel must review the court documents for each of Eckerman's prior convictions. Defense counsel has requested assistance from contacts in Florida to retrieve these records, but anticipates they will not arrive and be reviewed in time for timely preparation for the current necessary court documents, and prepare adequately and effectively trial date, which is now only a week away. Accordingly, a continuance is warranted and necessary to allow counsel for Eckerman enough time to review these for the jury selection and trial in this case.

The government does not object to a continuance.

Accordingly, it is ORDERED as follows:

(1) The motion for continuance of defendant Timothy Jason Eckerman (doc. no. 20) is granted.

(2) The jury selection and trial, now set for November 6, 2017, are reset for March 12, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 31st day of October, 2017.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE